



Commonwealth of Australia

Migration Regulations 1994

SPECIFICATION OF TRAINING BENCHMARKS

(Paragraphs 2.59(d) and 2.68(e) and
sub-sub-subparagraphs 5.19(4)(h)(i)(B)(I) and 5.19(4)(h)(i)(B)(II))

I, *CHRIS BOWEN*, Minister for Immigration and Citizenship, acting under regulations 2.59, 2.68 and 5.19 of the *Migration Regulations 1994* ('the Regulations'):

1. REVOKE instrument IMMI 09/107 signed on 10 September 2009 specifying the benchmarks for the training of Australian citizens and Australian permanent residents, for the purposes of paragraphs 2.59(d) and 2.68(e) of the Regulations: AND
2. SPECIFY for the purposes of paragraphs 2.59(d) and 2.68(e) and sub-sub-subparagraphs 5.19(4)(h)(i)(B)(I) and 5.19(4)(h)(i)(B)(II) of the Regulations that the benchmarks for the training of Australian citizens and Australian permanent residents are those listed at Schedule A.

This Instrument, IMMI 12/062, commences on 1 July 2012 immediately after the commencement of the *Migration Amendment Regulation 2012 (No. 2)*.

Dated 12 June 2012

Chris Bowen
Minister for Immigration and Citizenship

NOTE 1: Paragraph 2.59(d) of the Regulations provides that if an applicant is lawfully operating a business in Australia and has traded in Australia for 12 months or more – the applicant meets the benchmarks for the training of Australian citizens and Australian permanent residents specified in an instrument in writing made for that paragraph.

NOTE 2: Paragraph 2.68(e) of the Regulations provides that if the applicant is lawfully operating a business in Australia, and has traded in Australia for 12 months or more – the applicant meets the benchmarks for the training of Australian citizens and Australian permanent residents specified in an instrument in writing made for that paragraph.

NOTE 3: Sub-sub-subparagraph 5.19(4)(h)(i)(B)(I) of the Regulations provides that the nominator's business has operated for at least 12 months, and the nominator meets the requirements for the training of Australian citizens and Australian permanent residents that are specified by the Minister in an instrument in writing for that sub-sub-subparagraph.

NOTE 4: Sub-sub-subparagraph 5.19(4)(h)(i)(B)(II) of the Regulations provides that the nominator's business has operated for less than 12 months, and the nominator has an auditable plan for meeting the requirements specified in the instrument mentioned in sub-sub-subparagraph (I).

SCHEDULE A

Training Benchmarks

The business is not required to demonstrate that they are an industry leader in training.

The business is required to show that the training that has been, and continues to be, provided to employees who are Australian citizens and Australian permanent residents is related to the purpose of the business.

The training benchmarks for an established business are:

A) Recent expenditure, by the business, to the equivalent of at least 2% of the payroll of the business, in payments allocated to an industry training fund that operates in the same industry as the business, and a commitment, by the business, to maintain expenditure in each fiscal year, to that level, for the term of approval as a sponsor.

OR

B) Recent expenditure, by the business, to the equivalent of at least 1% of the payroll of the business, in the provision of training to employees of the business, and a commitment, by the business, to maintain expenditure in each fiscal year, to that level, for the term of approval as a sponsor.

Expenditure that can count towards this benchmark includes:

- paying for a formal course of study for the business's employees who are Australian citizens and Australian permanent residents or for TAFE or University students, as part of the organisational training strategy
- funding a scholarship in a formal course of study approved under the Australian Qualifications Framework for the business's employees who are Australian citizens and Australian permanent residents or, for TAFE or University students, as part of the organisational training strategy
- employment of apprentices, trainees or recent graduates on an ongoing basis in numbers proportionate to the size of the business
- employment of a person who trains the business's Australian employees who are Australian citizens and Australian permanent residents as a key part of their job
- evidence of payment of external providers to deliver training for Australian employees
- on-the-job training that is structured with a timeframe and clearly identified increase in the skills at each stage, and demonstrating:
 - the learning outcomes of the employee at each stage;
 - how the progress of the employee will be monitored and assessed;
 - how the program will provide additional and enhanced skills;
 - the use of qualified trainers to develop the program and set assessments; and
 - the number of people participating and their skill/occupation

Expenditure that cannot count towards this benchmark includes training that is:

- delivered on-the-job, other than on the job training which meets the requirements outlined above under the heading 'expenditure that can count towards this benchmark'
- confined to only one or a few aspects of the businesses broader operations, unless the training is in the primary business activity
- only undertaken by persons who are not Australian citizens or permanent residents
- only undertaken by persons who are principals in the business or their family members
- only relating to a very low skill level having regard to the characteristic and size of the business.